

REMARKS

Claims 1-5, 7-22, 24-36, 51-58, and 62-84 are pending in the application. Claims 6, 23, 37-50, and 59-61 have been cancelled without prejudice. Claims 1, 8, 52, 64, and 72 have been amended. New claims 81-84 have been added. Support for the amendments and new claims can be found in the specification at, e.g., page 7, lines 18-31, and page 15, lines 22-27. No new matter has been added.

Non-Entry of Amendment in Reply to Final Office Action Filed on December 8, 2006

It is applicant's understanding that the amendment filed in the response to the final Office Action was not entered for two reasons. First, the amendment was stated to present additional claims without canceling a corresponding number of finally rejected claims. The present amendment cancels five claims (claims 6, 23, and 59-61) and adds only four new claims (claims 81-84). Second, the microparticles of amended independent claims 1, 8, 52, and 72 were stated to comprise embodiments recited in dependent claims that have not been examined in the context of a microparticle comprising a carbohydrate. The Examiner and the undersigned discussed this objection in a telephone conversation on January 17, 2007. As requested by the Examiner, applicants confirm that the specification provides written description support for carbohydrate-containing microparticles in the context of the various embodiments of the dependent claims (see, e.g., passages in the specification at page 7, lines 18-21, and page 20, lines 21-23 stating that the microparticles described in the specification can contain a carbohydrate). The specification's broad description of carbohydrate-containing microparticles applies to all of the microparticles encompassed by the currently pending claims.

Allowable Subject Matter

At page 15 of the final Office Action, claims 60 and 61 were objected to as being dependent upon rejected base claims (claims 52 and 59). The Office Action stated that these claims "would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims."

Claims 60 and 61 have been cancelled and independent claim 52 (from which claim 60 depends) has been amended to include the limitations of cancelled claim 60. In addition to independent claim 52, independent claims 1, 8, and 72 have each been amended to include the limitation of allowable dependent claims 60 and 61 (wherein the microparticle comprises a "carbohydrate"). As amended, all of the independent claims pending in the application now recite, like amended claim 52, a microparticle containing at least the following components: a polymeric matrix; a carbohydrate; a lipid; and a nucleic acid molecule. In view of these amendments, it is applicants' understanding that all claims are now in condition for allowance. New dependent claims 81-84 have been added to further limit the "carbohydrate" recited in the independent claims.

35 U.S.C. §102 (Anticipation)

At pages 2-3 of the final Office Action, claims 1, 6, 7, 52-55, 65, 66, 70, and 75 were finally rejected under 35 U.S.C. §102(a) as allegedly anticipated by Lambert et al. (1998) *Biochimie* 80:969-76 ("Lambert").

At pages 3-4 of the final Office Action, claims 1, 6, 7, 52-55, 65, 66, 70, and 75 were finally rejected under 35 U.S.C. §102(b) as allegedly anticipated by Balland (1996) NATO ASI Series 290:131-42.

At pages 4-6 of the final Office Action, claims 1-9, 11, 13, 16, 18, 21, 26, 33, 34, 51-54, 56, 58, 59, 62, 64, 65, and 70-76 were finally rejected under 35 U.S.C. §102(e) as allegedly anticipated by Papahadjopoulos et al., U.S. Patent No. 6,210,707 ("Papahadjopoulos").

As detailed above in the section entitled "Allowable Subject Matter," each of independent claims 1, 8, 52, and 72 has been amended to require that the microparticle recited in the claims contains a "carbohydrate" (in addition to, at least, a polymeric matrix, a lipid, and a nucleic acid molecule). In view of the Examiner's comments at page 15 of the final Office Action regarding the allowability of claims 60 and 61 (which require the inclusion of a "carbohydrate" in a microparticle), it is applicants' understanding that the amendments to the independent claims obviate all of the anticipation rejections.

35 U.S.C. § 103(a) (Obviousness)

At pages 6-7 of the final Office Action, claims 1, 8, 12, 52, 57, 58, 72, and 77-80 were finally rejected as allegedly unpatentable over Papahadjopoulos in view of Debs et al., U.S. Patent No. 5,827,703 ("Debs").

At pages 8-9 of the final Office Action, claims 8, 10, 52, and 55 were finally rejected as allegedly unpatentable over Balland in view of Papahadjopoulos.

At pages 9-10 of the final Office Action, claims 8, 14, 15, 19, 20, and 34-36 were finally rejected as allegedly unpatentable over Papahadjopoulos in view of Fikes et al., U.S. Patent No. 6,534,482 ("Fikes").

At pages 10-11 of the final Office Action, claims 52 and 63 were finally rejected as allegedly unpatentable over Papahadjopoulos in view of Hedley et al., U.S. Patent No. 5,783,567 ("Hedley") or Ando et al. (1999) J. Pharm. Sci. 88:126-30 ("Ando").

At pages 12-13 of the final Office Action, claims 52 and 66-69 were finally rejected as allegedly unpatentable over Papahadjopoulos in view of Cleek et al. (1997) J. Biomed. Materials Res. 35:525-30 ("Cleek") as evidenced by Manoharan et al., U.S. Published Application No. 2005/0153337 ("Manoharan").

As detailed above in the section entitled "Allowable Subject Matter," each of independent claims 1, 8, 52, and 72 has been amended to require that the microparticle recited in the claims contains a "carbohydrate" (in addition to, at least, a polymeric matrix, a lipid, and a nucleic acid molecule). In view of the Examiner's comments at page 15 of the final Office Action regarding the allowability of claims 60 and 61 (which require the inclusion of a "carbohydrate" in a microparticle), it is applicants' understanding that the amendments to the independent claims obviate all of the obviousness rejections.

CONCLUSION

Applicants submit that all grounds for rejection have been overcome and that all claims are in condition for allowance, which action is requested.

Enclosed is a Petition for Three Month Extension of Time. The extension of time fee in the amount of \$450 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 08190-014002.

Respectfully submitted,

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